

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

CENTRAL MUTUAL INSURANCE  
COMPANY, a/s/o First Choice  
Industrial LLC,

Plaintiff,

v.

ECHO GLOBAL LOGISTICS, INC.,  
MELTON TRUCK LINES, INC., and  
TFORCE FREIGHT, INC.

Defendants.

CIVIL ACTION FILE NO.:

Removed from Gwinnett County State  
Court, Civil Action File No.: 22-C-  
06019-S4

**JURY TRIAL DEMANDED**

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**DEFENDANT MELTON TRUCK LINES, INC.’S NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1331, 1337(a), 1441, 1445(b) and 1446, Defendant, Melton Truck Lines, Inc. (hereinafter “MTL”), hereby gives notice of the removal of this civil action from the State Court of Gwinnett County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division. As grounds for this removal, MTL states as follows:

1. This civil action was commenced on or about April 14, 2023, by the filing of a Summons and Complaint in the State Court of Gwinnett County, Georgia, a copy of which is attached hereto as **Exhibit A**.

2. MTL was served with Plaintiff's Complaint on or about April 20, 2023. *See* Rogers County Sheriff's Office Return of Service, attached hereto as **Exhibit B**.

3. The defendant, TForce Freight, Inc., was served with Plaintiff's Complaint on or about April 27, 2023. *See* Return of Service, attached hereto as **Exhibit C**. Thomas C. Martin and William D. Bierman, national counsel for TForce Freight, Inc., who will be filing a motion for pro hac vice admission, consents to removal on behalf of the defendant, TForce Freight, Inc., pursuant to 28 U.S.C. § 1446(b)(2)(A).

4. The defendant, Echo Global Logistics, Inc., was served with Plaintiff's Complaint on or about April 20, 2023. *See* Return of Service, attached hereto as **Exhibit D**. Anna K. Beaton, counsel for Echo Global Logistics, Inc., consents to removal on behalf of Echo Global Logistics, Inc., pursuant to 28 U.S.C. § 1446(b)(2)(A).

**5. Federal Question Jurisdiction – 28 U.S.C. § 1337(a)**

Based on the allegations in the Complaint, the Civil Action may be removed to this Court by MTL pursuant to 28 U.S.C. §§ 1331, 1337(a), 1441, 1445(b) and 1446. This Court has original jurisdiction over the above captioned civil suit pursuant to 28 U.S.C. §1337(a), because Plaintiff alleges a claim involving an Act of Congress regulating commerce, to wit: a claim in excess of \$10,000 arising under

the Interstate Commerce Commission Termination Act of 1995 (“ICCTA”), 49 U.S.C. §14706 (the “Carmack Amendment”).

Plaintiff has alleged claims for Breach of a Contract of Bailment and Gross Negligence. (Plaintiff’s Complaint Counts 1 and 2). These claims are based on the alleged loss or damage to personal property while being transported for delivery in interstate commerce (Plaintiff’s Complaint at ¶¶ 4-12), and as such, Plaintiff’s claims are governed by the Carmack Amendment. See *Southeastern Express Co. v. Pastime Amusement Co.*, 299 U.S. 28, 29, 57 S.Ct. 73 (1936) (stating that the Carmack Amendment governs “all damages resulting from any failure to discharge a carrier’s duty with respect to any part of the transportation to the agreed destination.”); *Andrews v. Atlas Van Lines, Inc.*, 504 F.Supp.2d 1329 (N.D. Ga. 2007), citing *Smith v. UPS*, 296 F.3d 1244, 1249 (11<sup>th</sup> Cir. 2002) (“only claims based on conduct separate and distinct from the delivery, loss of, or damage to goods escape [Carmack Amendment] preemption.”).

Plaintiff’s Complaint states that Plaintiff’s insured, First Choice Industrial LLC (hereinafter “First Choice”) was the owner of certain items of personal property, and that while said personal property was in the possession of MTL and the other defendants in this case, said property was damaged. The Complaint goes on to state that, by damaging First Choice’s property, MTL breached a contract of bailment pursuant to O.C.G.A. §44-12-40. “A bailment is a delivery of goods or

property upon a contract, express or implied...” O.C.G.A. §44-12-40. Therefore, Plaintiff’s Complaint alleges that their property was damaged while being transported by MTL for delivery.

Plaintiff’s Complaint states that First Choice is entitled to recover \$125,000.00 in damages. Plaintiff’s Complaint at ¶¶ 8-9. Thus, the amount in controversy exceeds \$10,000.00, as required by 28 U.S.C. § 1337(a).

This Civil Action is therefore removable to this Court pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1441.

**6. Diversity Jurisdiction – 28 U.S.C. § 1332**

In addition to the above stated grounds for removal, this action is one which may be removed to this Court by Defendants, pursuant to 28 U.S.C. §§ 1441 and 1446, on grounds this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 in that diversity of citizenship exists between Plaintiff and Defendants hereto, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, for the reasons stated below:

- a. Upon information and belief, Plaintiff, Central Mutual Insurance Company, a/s/o First Choice Industrial LLC, is and was at all times relevant hereto, a corporation having its principal place of business in the State of Ohio. Therefore Plaintiff, Central Mutual Insurance

Company, a/s/o First Choice Industrial LLC, is a citizen of the State of Ohio.

- b. Defendant, Melton Truck Lines, Inc. (“MTL”), is and was at all times relevant hereto, a corporation, incorporated in the state of Oklahoma, having its principal place of business in Tulsa, Oklahoma. Therefore Defendant, Melton Truck Lines, Inc., is a citizen of the State of Oklahoma.
- c. The defendant, Echo Global Logistics, Inc., is and was at all times relevant hereto, a Delaware corporation having its principal place of business in Chicago, Illinois. Therefore the defendant, Echo Global Logistics, Inc., is a citizen of Delaware or Illinois.
- d. The defendant, TForce Freight, Inc., is and was at all times relevant hereto, a corporation, incorporated in the Commonwealth of Virginia, with its principal place of business in Richmond, Virginia. Therefore the defendant, TForce Freight, Inc., is a citizen of Virginia.

7. **Venue.** MTL desires to remove this action to the United States District Court for the district in which this action is now pending, to wit, the Northern District of Georgia. 28 U.S.C. § 1441(a).

8. This Notice of Removal is timely filed, pursuant to 28 U.S.C. § 1446(b), as not more than thirty (30) days have elapsed since MTL was served with the Complaint in this case.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is promptly being filed with the Clerk of the State Court of Gwinnett County, Georgia, and served on counsel for Plaintiff and on all other parties to this civil action via electronic service and/or First-Class United States Mail, postage prepaid.

10. All State Court documents: Pursuant to 28 U.S.C. § 1446(a), all state-court filings are attached hereto, as follows: Plaintiff's Complaint, attached as **Exhibit A**; Affidavits of Service on all Defendants, attached as **Exhibits B, C, and D**; and the Entry of Appearance of Jessica A. Seares and Amanda Matthews, attached as **Exhibit E**.

**WHEREFORE**, these Defendants exercise their right under the provisions of 28 U.S.C. § 1441, *et seq.* to remove this action from the State Court of Gwinnett County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 22<sup>nd</sup> day of May 2023.

[SIGNATURE ON FOLLOWING PAGE]

**NALL & MILLER, LLP**

**By:** /s/ Amanda Matthews

**AMANDA MATTHEWS**

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**JESSICA A. SEARES**

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**CERTIFICATE OF COMPLIANCE WITH N.D. GA. LOCAL RULE 5.1B**

This is to certify that this pleading was created in Times New Roman 14-point font in accordance with Northern District of Georgia Local Rule 5.1B.

This 22<sup>nd</sup> day of May 2023.

**NALL & MILLER, LLP**

**By: /s/ Amanda Matthews  
AMANDA MATTHEWS**

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing **NOTICE OF REMOVAL** via CM/ECF for United States District Court Northern District of Georgia – Atlanta Division and statutory electronic service upon all counsel of record as follows:

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*Attorneys for Defendant, TForce Freight, Inc.*

This 22<sup>nd</sup> day of May 2023.

[SIGNATURE ON FOLLOWING PAGE]

**NALL & MILLER, LLP**

**By:** /s/ Amanda Matthews

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